



State of Michigan
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Department of Consumer & Industry Services
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March 17, 1999

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Dear #####:

Your recent letter, addressed to Barbara Streffling, Director of Licensing and Enforcement Division, asking whether ##### may offer ##### life insurance to its Michigan loan customers, has been referred to me for response.

Section 13a(1) of the Regulatory Loan Act of 1963 (RLAct), MCL 493.1 et seq., states as follows:

“In addition to charges allowed under section 13, at the option of the borrower, a licensee may obtain or provide 1 or both of the following and deduct from the principal of a loan and retain an amount equal to the premium lawfully charged by the insurance company:

(a) Credit insurance as defined in the credit insurance act, Act No. 173 of the Public Acts of 1958, being sections 550.601 to 550.624 of the Michigan Compiled Laws.

(b) Any other insurance under the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.100 to 500.8301 of the Michigan Compiled Laws.”

Section 22 of the Secondary Mortgage Loan Act, MCL 493.72, authorizes a licensee or registrant to finance insurance premiums. Section 22(1), in part, states as follows:

“Other charges and fees shall not be made, directly or indirectly, in connection with the making of a secondary mortgage loan, except for the following, which may be included in the principal of the loan:

.....

(d) Charges for credit life insurance or credit accident and health insurance as defined in the credit insurance act, Act No. 173 of the Public Acts of 1958, being sections 550.601 to 550.624 of the Michigan Compiled Laws, or any other insurance pursuant to the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.100 to 500.8302 of the Michigan Compiled Laws, that is offered by the licensee and purchase is at the option of the borrower.”

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Although the Mortgage Brokers, Lenders and Servicers Licensing Act (First Mortgage Act), MCL 445.1651 et seq., was not amended as part of the insurance-reform package of bills enacted in 1994 (effective March 30, 1995), the amendment to the Insurance Code defines "lender" broadly. Section 1243(1)(g) defines lender as follows:

""Lender" means a person or entity who directly or indirectly, in the ordinary course of business regularly makes, arranges, offers to make, or purchases and services a loan as defined by subdivision (h). A lender includes a mortgage broker. If a person purchases an interest in but does not service a loan, that person is not a lender under this section for the purposes of that loan."

The First Mortgage Act is silent on whether a licensee or registrant may sell insurance. The above definition of lender, however, is broad and appears to include mortgage brokers, lenders, and servicers. I should note that insurance companies that make, broker, or service mortgage loans are not exempt from the licensing and registration requirements of the First Mortgage Act. Clearly, an insurance company making more than 10 first mortgage loans during a 12-month period from July 1 to June 30 would be subject to the requirements of First Mortgage Act and the Insurance Code provisions applicable to lenders. It seems reasonable, therefore, that a mortgage company would be authorized to sell insurance if it complies with the provisions of the Insurance Code and other applicable law.

As you know, the Commissioner does not authorize or regulate the sale of insurance. Insurance sold under the Insurance Code must be approved by the Insurance Bureau and must comply with the act and all applicable rules promulgated thereunder.

I hope that this information helps. Feel free to contact me at (517) 373-3470 if you have further questions.

Sincerely,

A. Ann Gaultney
Director, Examination Division

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